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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,387	07/14/2003	William C. Kress	66329/24815	5438

23380 7590 09/13/2007
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EXAMINER

NGUYEN, MADELEINE ANH VINH

ART UNIT	PAPER NUMBER
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2625

NOTIFICATION DATE	DELIVERY MODE
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09/13/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@tuckerellis.com
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Office Action Summary

Application No.

10/619,387

Applicant(s)

KRESS, WILLIAM C.

Examiner

Madeleine AV Nguyen

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group III, claims 23-47 in the reply filed on June 29, 2007 is acknowledged.

Claim Objections

2. Claim 33 is objected to because of the following informalities: "A image output apparatus" should be --An image output apparatus--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 23-47 are rejected under 35 U.S.C. 102(e) as being anticipated by Allen et al (US Patent No. 6,535,307)

Concerning claim 33, Allen et al discloses an image output apparatus (Fig.2), comprising means adapted to output a predetermined image (34); means adapted to select an adjustment parameter (Figs.3-6); and means (41) adapted to adjust the image output engine based on the adjustment parameter; wherein the adjustment parameter is selected by a user comparing the predetermined image with a reference image (Abstract; col. 7, line 28 – col. 8, line 46; col. 9, lines 34-64; col. 10, line 18 – col. 11, line 47; col. 12, lines 5-53; col. 13, line 48 – col. 14, line 24; col. 15, lines 1-36; col. 16, lines 22-56; col. 20, lines 36-50; col. 21, lines 51-60; col. 22, lines 23-31).

Concerning claims 34-40, Allen further teaches the image output apparatus of claim 33 wherein the reference image comprising a plurality of images, each image having a different background (120, 121, 122, 123, 124, Fig.3; Figs.4-6), (claim 34); the plurality of images has one image (symbol X) with a light background and a dark background (Figs.5-6), (claims 35-36); the image with a light background is the same image as the image with the dark background (Figs.3-6), (claim 37); the predetermined image comprises a first image outputted with a light background and a first image with a dark background (when symbol X does not change and background changes), (Figs.3-6), (claim 38); an interface wherein commands are input via a control panel interface (40), (claim 39); the adjustment parameter is selected from the group consisting of lighten, darken and no adjustment (Figs.3-6), (claim 40), (col. 10, line 18 – col. 11, line 47; col. 12, lines 5-53; col. 13, line 48 – col. 14, line 24; col. 15, lines 1-36; col. 16, lines 22-56; col. 20, lines 36-50; col. 21, lines 51-60; col. 22, lines 23-31).

It is noted that instead of changing the parameter of symbol X while keeping the parameter of the background constant, it is possible to change the parameter of the background while keeping the parameter of the symbol X constant since Allen teaches the determination of the contrast between the symbol and the background, and the determination whether the test variable is under, over or the same the tolerance limits (col. 10, lines 41-55; col. 13, line 58 – col. 14, line 24).

Claims 23-28, 30 and 32 are method claims of apparatus claims 33-40. Claims 23-28, 30 and 32 are rejected for the same rationales set forth for claims 33-40 above.

Concerning claims 29 and 31, Allen further teaches the method of claims 24 and 28 further comprising visually comparing the predetermined image with the reference by determining whether any details are missing from the first image with a light background and the first image with a dark background (; and the commands for performing the method are input via a remote computer communicatively coupled to the image output device (col. 12, lines 5-53; col. 13, line 48 – col. 14, line 24; col. 15, lines 1-36; col. 16, lines 22-56; col. 20, lines 36-50; col. 21, lines 51-60).

Concerning claims 41-47, Allen discloses a computer program product having a computer readable medium having computer program logic recorded thereon for producing an image comprising means discussed in claims 33-40 above.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Kanno et al (US Patent No. 6,567,544) discloses an image processing apparatus which, in the case of copying a document of a background density, lightens a background density and reserves a character density and, in the case of copying a document involving a "back image" emergence, lightens the background image and reserves a "surface" image density.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madeleine AV Nguyen whose telephone number is 571 272-7466. The examiner can normally be reached on Monday-Friday 9:00am-5:30pm.

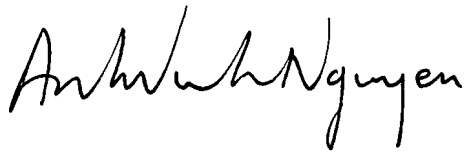
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on 571 272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read "Madeleine AV Nguyen". The signature is fluid and cursive, with the first name "Madeleine" written in a stylized, connected script, followed by the initials "AV" and the last name "Nguyen".

Madeleine AV Nguyen
Primary Examiner
Art Unit 2625

August 24, 2007